1877.

SUPREME COURT OF THE UNITED STATES.

No. 166.

THE UNITED STATES, PLAINTIFFS,

vs.

THOMAS REID AND EDWARD CLEMENTS.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT, U. S., FOR THE EASTERN DISTRICT OF VIRGINIA.

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GIBSON, print.

Be it remembered, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the United States court room, in the city of Richmond, on Monday, the 25th day of November, 1850.

Present, the honorable James D. Halyburton, judge of the eastern district of Virginia.

John L. Tate, gentleman, foreman; John Dixon, B. B. Moseley, Conway Whittle, Thomas Gatewood, Charles J. Stovin, George M. Carrington, James J. Binford, William C. Allen, John J. London, M. B. Brown, John Giddon, William H. Hubbard, John Womble, Norborne E. Sutton, George Fisher, Edwin Burton, and James A. Forbes, gentlemen, were sworn a grand jury of inquest for the body of this district, and having received their charge, retired from the bar, and after some time returned into court, and presented—

"An indictment No. 1, against Thomas Reid and Edward Clements for felony, 'true bill;' and an indictment, No. 2, against Thomas Reid and Edward Clements for felony, true bill."

The following is a true transcript of the indictment, No. 2, wherein the said Reid and Clements were tried and convicted of felony:

UNITED STATES OF AMERICA,
Eastern district of Virginia, to wit:

In the circuit court of the United States, in and for the said district.

1st count. The grand jurors of the United States, in and for the circuit and district aforesaid, on their oaths present, that Thomas Reid, late of the circuit and district aforesaid, mariner, and Edward Clements, late of the circuit and district aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, heretofore, to wit, on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and fifty, with force and arms, on the high seas, out of the jurisdiction of any particular State of the United States, within the admiralty and maritime jurisdiction of the said United States, and within the jurisdiction of this court, in and on board of a certain vessel called the J. B. Lindsey, then and there owned by a citizen or citizens of the said United States, to the jurors unknown, in and upon one John Heeney, in the peace of God and the said United States, then and there being on board the said vessel, called the J. B. Lindsey, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, piratically, feloniously, wilfully, and of their malice aforethought, did make an assault; and that the said Thomas Reid, a certain pistol, of the value of one dollar, then and there charged with gunpowder and one leaden bullet, which said pistol, he, the said Thomas Reid, in his

right hand then and there had and held, then and there feloniously, wilfully, and of his malice aforethought, did discharge and shoot off, at, against, and upon the said John Heeney, then and there being on the high seas, out of the jurisdiction of any particular State of the United States, in the vessel aforesaid, and within the jurisdiction of this court. And that the said Thomas Reid, with the leaden bullet aforesaid, then and there, by force of the gunpowder aforesaid, by the said Thomas Reid discharged and shot off as aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate, and wound the said John Heeney, in and upon the right side of him, the said John Heeney, giving him, the said John Heeney, then and there, with the leaden bullet aforesaid, discharged and shot out of the pistol aforesaid by the said Thomas Reid, in and upon the right side of him, the said John Heeney, one mortal wound of the depth of four inches, and of the breadth of half an inch; of which said mortal wound the said John Heeney, on the high seas, in the vessel aforesaid, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, instantly died. And that the said Edward Clements, then and there feloniously, wilfully, and of his malice aforethought, was present, aiding and assisting the said Thomas Reid, the felony and murder aforesaid, in manner and form aforesaid, to do and commit. And the jurors aforesaid, upon their oaths aforesaid, do say, that the said Thomas Reid and Edward Clements, in manner and form aforesaid, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, him, the said John Heeney, piratically, feloniously, and of their malice aforethought, did kill and murder, against the peace and dignity of the said United States, and against the form of the statute of the said United States in such case made and provided.

2d count. And the grand jurors aforesaid, upon their oaths aforesaid, further present, that Edward Clements, late of the circuit and district aforesaid, mariner, and Thomas Reid, late of the circuit and district aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, heretofore, to wit, on the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and fifty, with force and arms, on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, in and on board of a certain vessel called the J. B. Lindsey, owned by a citizen or citizens of the United States of America to the jurors unknown, in and upon one John Heeney, in the peace of God and the said United States then and there being on board the said vessel called the J. B. Lindsey, on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, piratically, feloniously, wilfully, and of their malice aforethought, did make an assault; and that the said Edward Clements, a certain pistol of the value of one dollar, then and there charged with gunpowder and one leaden bullet, which said pistol he, the said Edward Clements, in his

right hand then and there had and held, then and there feloniously, wilfully, and of his malice aforethought, did discharge and shoot off, at, against, and upon the said John Heeney, then and there being on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, in the vessel aforesaid. And that the said Edward Clements, with the leaden bullet aforesaid, out of the pistol aforesaid, then and there by force of the gunpowder aforesaid, by the said Edward Clements discharged and shot off as aforesaid, then and there feloniously, wilfully, and of his malice aforethought, did strike, penetrate, and wound the said John Heeney in and upon the right side of him, the said John Heeney, giving to him, the said John Heeney, then and there, with the leaden bullet aforesaid, so as aforesaid discharged and shot out of the pistol aforesaid, by the said Edward Clements, in and upon the right side of him, the said John Heeney, one mortal wound of the depth of four inches and of the breadth of half an inch; of which said mortal wound the said John Heeney on the high seas, in the vessel aforesaid, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, instantly died.

And the said Thomas Reid then and there feloniously, wilfully, and of his malice aforethought, was present, aiding and assisting the said Edward Clements, the felony and murder aforesaid, in manner and form aforesaid, to do and commit.

And the jurors aforesaid, on their oaths aforesaid, do say, that the said Edward Clements and Thomas Reid, in manner and form aforesaid, on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, him, the said John Heeney, piratically, feloniously, and of their malice aforethought, did kill and murder, against the peace and dignity of the United States, and against the form of the act of the Congress of the United States in such case made and provided.

3d count. And the jurors aforesaid, on their oaths aforesaid, further present, that Thomas Reid, late of the circuit and district aforesaid, mariner, and Edward Clements, late of the circuit and district aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, heretofore, to wit, on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and fifty, with force and arms, on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, in and on board of a certain vessel called the J. B. Lindsey, which said vessel was then and there owned by a citizen or citizens of the United States to the jurors unknown, in and upon one John Heeney, in the peace of God and of the said United States then and there being on board of the vessel aforesaid, on the high seas, out of the jurisdiction of any particular State of the United States, and within the jurisdiction of this court, piratically, feloniously, wilfully, and of their malice aforethought, did make an assault; and that he, the said Thomas Reid, with a certain instrument

called a dirk, of the value of one dollar, which he, the said Thomas Reid, in his right hand then and there had and held, upon the left side of him, the said John Heeney, then and there being on the high seas, in the vessel aforesaid, out of the jurisdiction of any particular State, and within the jurisdiction of this court, then and there, feloniously, wilfully, and of his malice aforethought, did strike, giving to the said John Heeney with the dirk aforesaid, in manner aforesaid, in and upon the left side of him, the said John Heeney, *with the dirk aforesaid, in manner aforesaid, in and upon the left side of him, the said John Heeney*, divers mortal wounds, to wit, one mortal wound of the depth of four inches, and of the breadth of one inch, of which said mortal wound the said John Heeney, on the high seas aforesaid, out of the jurisdiction of any particular State, and within the jurisdiction of this court, instantly died.

And that the said Edward Clements then and there, feloniously, wilfully, and of his malice aforethought, was present aiding and assisting the said Thomas Reid the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, on their oaths aforesaid, do say, that the said Thomas Reid and Edward Clements, in manner and form aforesaid, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, him, the said John Heeney, piratically, feloniously, and of their malice aforethought, did kill and murder, against the peace and dignity of the said United States, and against the form of the act of the Congress of the United States in such case made and provided.

4th count. And the jurors aforesaid, upon their oaths aforesaid, further present, that Thomas Reid, late of the circuit and district aforesaid, mariner, and Edward Clements, late of the circuit and district aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, heretofore, to wit, the twenty-seventh day of January, in the year of our Lord one thousand eight hundred and fifty, with force and arms, on the high seas, out of the jurisdiction of any particular State of the United States, and within the admiralty and maritime jurisdiction of the said United States, and within the jurisdiction of this court, in and on board of a certain vessel called the J. B. Lindsey, which said vessel was then and there owned by a citizen or citizens of the United States of America to the jurors unknown, in and upon one John Heeney, in the peace of God and the said United States then and there being on board said vessel, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, piratically, feloniously, wilfully, and of their malice aforethought, did make an assault; and that the said Edward Clements, with a certain instrument called a knife, of the value of one dollar, which he, the said Edward Clements, in his right hand then and there had and held, upon the left side of him, the said John Heeney, then and there being on the high seas, out of the jurisdiction of any particular State, in the vessel aforesaid, and within the jurisdiction of this court, then and there feloniously, wilfully, and

of his malice aforethought, did strike, giving to the said John Heeney, with the knife aforesaid, in manner aforesaid, upon the left side of him, the said John Heeney, divers mortal wounds, to wit, one mortal wound of the depth of four inches, and of the length of one inch; of which said mortal wound the said John Heeney, on the high seas aforesaid, in the vessel aforesaid, out of the jurisdiction of any particular State, and within the jurisdiction of this court, instantly died.

And the said Thomas Reid then and there, feloniously, wilfully, and of his malice aforethought, was present aiding and assisting the said Edward Clements the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and the jurors aforesaid, on their oaths aforesaid, do say, that the said Edward Clements and Thomas Reid, in manner and form aforesaid, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, him, the said John Heeney, piratically, feloniously, wilfully, and of their malice aforethought, did kill and murder, against the peace and dignity of the said United States, and against the form of the act of the Congress of the said United States in such case made and provided.

5th count. And the grand jurors aforesaid, upon their oaths aforesaid, further present, that Thomas Reid, late of the circuit and district aforesaid, mariner, and Edward Clements, late of the circuit and district aforesaid, mariner, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, heretofore, on the 27th day of January, in the year of our Lord one thousand eight hundred and fifty, with force and arms, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, in and on board of a certain vessel called the J. B. Lindsey, which said vessel was then and there owned by a citizen or citizens of the United States of America to the jurors unknown, in and upon one John Heeney, in the peace of God and the said United States then and there being on board of the vessel aforesaid, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, piratically, feloniously, wilfully, and of their malice aforethought, did make an assault; and the said Thomas Reid, with certain instruments and weapons to the jurors aforesaid unknown, which he, the said Thomas Reid, in his right hand then and there had and held; and the said Edward Clements, with certain instruments and weapons to the jurors unknown, which he, the said Edward Clements, in his right hand then and there had and held, the said John Heeney, in and upon the sides, breast, back, head, and other parts of the body of him, the said John Heeney, then and there being on the high seas, in the vessel aforesaid, out of the jurisdiction of any particular State, and within the jurisdiction of this court, then and there, feloniously, wilfully, and of his malice aforethought, did strike and wound, giving to him, the said John Heeney, then and there, with the instruments and weapons aforesaid, by such striking and wounding, divers mortal wounds, strokes, bruises, and contusions, in and upon the

sides, back, breast, head, and other parts of the body of him, the said John Heeney; of which said mortal wounds, strokes, bruises, and contusions he, the said John Heeney, on the high seas, on the vessel aforesaid, out of the jurisdiction of any particular State, and within the jurisdiction of this court, did instantly die.

And so the jurors aforesaid, on their oaths aforesaid, do say, that they, the said Thomas Reid and Edward Clements, in manner and form aforesaid, on the high seas, out of the jurisdiction of any particular State, and within the jurisdiction of this court, him, the said John Heeney, did kill and murder, against the peace and dignity of the said United States, and against the form of the act of the Congress of the United States in such case made and provided.

And the jurors aforesaid, upon their oaths aforesaid, further say, that the eastern district of Virginia aforesaid, in the fourth circuit, is the district and circuit into which the said Thomas Reid and Edward Clements were brought for the offence aforesaid.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Tuesday, the 26th day of November, 1850:

On the motion of William T. Joynes, attorney for the United States, and on the motion of the counsel for the prisoner, Edward Clements, ordered, that a writ of venire facias issue, commanding the marshal to summon twenty-four persons, freeholders of the eastern district of Virginia, and qualified in other respects to serve as jurors in cases of felony in the courts of this State, to attend this court at 10 o'clock on to-morrow, for the separate trial of Edward Clements, who stands indicted, jointly with Thomas Reid, for felony; the said Edward Clements having applied, by his counsel, for a separate trial.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Wednesday, November 27th, 1850:

Thomas Reid and Edward Clements, who stand indicted of felony, were this day led to the bar in custody of the marshal, and were thereof arraigned, and pleaded "not guilty;" and on the motion of the said Edward Clements, by his attorney, leave having been granted by the court to sever in their defence, the court proceeded with the trial of the said Edward Clements; and on the motion of the prisoner, Thomas Reid, by his attorney, and for reasons appearing to the court, the trial of the said Thomas Reid is continued until the ninth day of December next; and the said Thomas Reid is remanded to jail. And thereupon the venire facias, ordered on yesterday, being this day returned by Robert Walker, deputy marshal, whereby it appears that twenty-four persons, freeholders of the eastern district of Virginia, and qualified in other respects to serve as jurors in cases of felony in the courts of this State, for the separate trial of Edward Clements, who stands indicted, jointly with Thomas Reid, for felony, to wit, Thomas D. Quarles, Alexander Ganett, Charles Stebbins, D. C. Randolph, Peyton G. Bailey, Ambrose Carlton, William L. McMinn, James B. Du-

puy, James Griffin, E. M. Porter, Valentine Winfree, Edward B. Selden, G. D. Shell, James Bray, John A. Lancaster, Leonard Slater, William Bootwright, John Purcell, James H. Walthall, R. P. Richardson, G. W. Apperson, Hugh Awatt, Richard S. Massie, and John R. Winston, were summoned to attend the court at 10 o'clock this day, to recognise, on their oaths, whether the said Edward Clements be guilty of the felony whereof he stands indicted or not. All of whom appeared accordingly and answered to their names; whereupon, for reasons appearing to the court, and by the consent of the attorney for the United States, and of the prisoner by his attorney, two of the venire, to wit, Thomas D. Quarles and G. W. Apperson, were excused from serving; and four others, to wit, James Griffin, Valentine Winfree, James Bray and Ambrose Carlton, were challenged by the prisoner; and to make up the panel of twenty-four qualified jurors, free from exception, for the said trial, six other venire men were, by order of the court, summoned forthwith by the marshal, to wit, P. M. Tabb, Peter Crew, John O. Mosby, R. M. Allen, C. W. Purcell, and Peyton Johnston; and a panel of twenty-four qualified jurors appearing, P. M. Tabb, one of the venire men, was challenged by the prisoner, and William C. Thompkins was summoned forthwith by the marshal; and the panel of twenty-four qualified jurors, free from exception, being completed, and the prisoner, Edward Clements, having exercised his privilege by striking from the panel the names of eight jurors, from the remaining sixteen, a jury was thereupon selected by lot, to wit, Alexander Ganett, Charles Stebbins, Peyton G. Bailey, William L. McMinn, J. B. Dupuy, E. M. Porter, G. D. Shell, John A. Lancaster, William Bootwright, R. P. Richardson, Peter Crew, and Leonard Slater; who, being sworn well and truly to try, and true deliverance make, between the United States and the prisoner at the bar, and they having partly heard the evidence, were, with the consent of the prisoner, committed to the custody of the marshal of this court, who is directed to keep them together, without communication with any other person, and to cause them to appear here to-morrow morning, at 10 o'clock. Whereupon, an oath was administered to Dabney M. Miller, a bailiff of this court, to the following effect: "You shall solemnly affirm, that you shall, well and truly, to the best of your ability, keep this jury together, and neither speak to them yourself, nor suffer any other person to speak to them, touching any matter relative to this trial, until they return into court to-morrow." And the said Edward Clements is remanded to jail.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Thursday, the 28th day of November, 1850:

Edward Clements, who stands indicted of felony, was this day again led to the bar, in custody of the marshal of this court, and the jury sworn on yesterday for his trial were brought into court by Dabney M. Miller, bailiff; and having fully heard the evidence, and having partly heard the arguments of counsel, were, by the consent of the said

Edward Clements, recommitted to the custody of the said bailiff, who made solemn affirmation that he would well and truly, to the best of his ability, keep them together, and neither speak to them himself, nor suffer any other person to speak to them, touching any matter relative to this trial, until they return into court; and the said bailiff is ordered to have them in court at 10 o'clock to-morrow morning. And the said Edward Clements is remanded to the custody of the marshal.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Friday, the 29th day of November, 1850:

Edward Clements, who stands indicted of felony, was this day again led to the bar, in custody of the marshal of this court, and the jury sworn for his trial were brought into court by Dabney M. Miller, bailiff, and having fully heard the evidence and the arguments of counsel, retired to consult of their verdict, and after some time returned into court, and brought in the following verdict, "we of the jury find the prisoner, Edward Clements, guilty. John A. Lancaster. November 29th, 1850." And the prisoner is remanded to the custody of the marshal of this court.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the United States court-room in the city of Richmond, on Monday, the 9th December, 1850:

United States
against
Thomas Reid, mariner. } On indictment for felony.

For reasons appearing to the court, and with the assent of the counsel for the accused, the trial of the said Thomas Reid is adjourned until Wednesday next.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Wednesday, December 11th, 1850:

United States
against
Thomas Reid, mariner. } On indictment for felony.

On the motion of the attorney for the United States, ordered, that a writ of venire facias issue, commanding the marshal to summon twenty-four persons, freeholders of the eastern district of Virginia, and qualified in other respects to serve as jurors in cases of felony in the courts of this State, to attend this court to-morrow morning at eleven o'clock, for the trial of Thomas Reid, mariner, who stands indicted of felony.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Friday, December 12th, 1850:

Thomas Reid, mariner, who stands indicted of felony jointly with Edward Clements, was this day again led to the bar in custody of the

marshal, and the venire facias ordered on yesterday was returned "executed," by Robert Walker, deputy marshal, whereby it appears that the following twenty-four persons, to wit, Philip M. Tabb, jr., William H. Goodwin, James K. Caskie, H. A. Pearce, J. H. Walke, William M. Sutton, John W. Wright, Andrew Johnston, Wm. Slater, W. C. Ellington, E. L. Tompkins, Wm. C. Tompkins, Richard Reins, James H. Gardener, Samuel F. Adie, Charles H. Powell, John Gaynor, Fleming Griffin, Hiram Bragg, George A. W. Taylor, George Woodfin, Ira Tichenor, Joseph M. Willis, and Thomas Barham, were summoned to attend the court this day at 11 o'clock, to recognise on their oaths whether the said Thomas Reid be guilty of the felony whereof he stands charged or not, all of whom appeared accordingly; whereupon, eleven of them, to wit, Philip M. Tabb, jr., James K. Caskie, H. A. Pearce, Andrew Johnston, Richard Reins, Samuel F. Adie, John Gaynor, Fleming Griffin, George A. W. Taylor, George Woodfin, and Thomas Barham, the prisoner challenged peremptorily; and the two following, to wit, Wm. H. Goodwin and W. C. Ellington, were challenged for cause; whereupon the original panel being exhausted, it is ordered by the court, that the marshal summon twenty qualified jurors, free from exception, to appear forthwith to complete the panel of twenty-four for the trial of the said prisoner; whereupon the marshal summoned the following, to wit, E. D. Eacho, John H. Knowles, Luther Libby, Charles G. Thompson, Daniel Truehart, R. M. Allen, T. W. Keesee, Charles P. Word, Fendall Griffin, Thomas Otey, Hugh Rileigh, B. J. Sizer, G. W. Gretter, James Phillips, T. H. Taliaferro, Merriwether Jones, Franklin Stearns, R. C. Gwathmey, N. H. Ragland, and W. K. Watts, all of whom appeared accordingly, (except T. H. Taliaferro,) two of whom, to wit, John H. Knowles and Luther Libby, were challenged for cause; and one of whom, to wit, Daniel Truehart, was peremptorily challenged by the prisoner; and a panel of twenty-four qualified jurors being completed, to wit, I. H. Walke, Wm. M. Sutton, John W. Wright, Wm. Slater, E. L. Tompkins, Wm. C. Tompkins, James H. Gardener, Charles H. Powell, Hiram Bragg, Ira Tichenor, Joseph M. Willis, E. D. Eacho, Charles G. Thompson, R. M. Allen, Thomas W. Keesee, Charles P. Word, Fendall Griffin, Thomas Otey, Hugh Rileigh, B. J. Sizer, Geo. W. Gretter, James Phillips, Meriwether Jones, and Franklin Stearns, for reasons appearing to the court, and with the assent of the attorney for the United States, and the counsel for the prisoner, the said panel of twenty-four is adjourned until to-morrow morning, 10 o'clock; and the prisoner is remanded to the custody of the marshal, who is ordered to have the said prisoner in court at 10 o'clock to-morrow morning.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Friday, December the 13th, 1850.

Thomas Reid, mariner, who stands indicted of felony jointly with

Edward Clements, was this day again led to the bar in custody of the marshal, and the panel of twenty-four qualified jurors, completed on yesterday, all appeared according to their adjournment; and the said prisoner, Thomas Reid, having exercised his privilege by striking from the panel the names of eight of said jurors, from the remaining sixteen a jury was thereupon selected by lot, to wit, William Slater, James H. Gardener, Hiram Bragg, Ira Tichenor, E. D. Eacho, Charles G. Thompson, R. M. Allen, Thomas W. Keese, Hugh Rileigh, James Phillips, William M. Sutton, and Franklin Stearns, who being sworn well and truly to try and true deliverance make between the United States of America and the prisoner at the bar, and they, having partly heard the evidence, were with the consent of the prisoner, by his counsel, committed to the custody of the marshal of this court, who is directed to keep them together without communication with any other person, and to cause them to appear here to-morrow morning at 10 o'clock. Whereupon an oath was administered to Dabney M. Miller, a bailiff of this court, to the following effect: "You shall solemnly affirm that you shall well and truly, to the best of your ability, keep this jury together, and neither speak to them yourself, nor suffer any other person to speak to them touching any matter relative to this trial until they return into court to-morrow;" and the prisoner is remanded to the custody of the marshal, who is ordered to have the said prisoner in court at 10 o'clock to-morrow morning.

On the motion of the prisoner, Thomas Reid, by his counsel, on affidavit made by the prisoner, and by him sworn to in open court, a capias ad testificandum is awarded, requiring the sheriff and jailor of Henrico county to bring before this court the following persons, Joseph J. Hall, Edward Curtis, and Franklin Allison, now confined in the jail of the said county, to be heard and give testimony on the trial of the said Thomas Reid.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Saturday, December 14th, 1850:

Thomas Reid, mariner, who stands indicted of felony jointly with Edward Clements, was this day again led to the bar, in custody of the marshal of this court, and the jury sworn for his trial were brought into court by Dabney M. Miller, bailiff, and having fully heard the evidence, and partly heard the arguments of counsel, were, on the motion of the counsel of the prisoner, and for reasons appearing to the court, committed to the custody of the marshal of this court; whereupon Dabney M. Miller, a bailiff of this court, made affirmation to the following effect: "I do solemnly affirm that I shall well and truly, to the best of my ability, keep this jury together, and neither speak to them myself, nor suffer any other person to speak to them, touching any matter relative to this trial, until they return to court on Monday next;" and the prisoner is remanded to the custody of the marshal, who is ordered to have the said prisoner in court on Monday morning next, at 10 o'clock.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Monday, December 16th, 1850:

Thomas Reid, mariner, who stands indicted of felony jointly with Edward Clements, was this day again led to the bar, in custody of the marshal of this court, and *they* jury sworn for his trial were brought into court by Dabney M. Miller, bailiff, and having fully heard the evidence and the arguments of counsel, retired to consult of their verdict, and after some time returned into court and declared that they could not agree upon a verdict; whereupon they were committed to the custody of said bailiff, who is directed to keep them together without communication with any other person, and to cause them to appear here before the court to-morrow morning, at eleven o'clock; and thereupon an affirmation was administered to Dabney M. Miller, bailiff, to the following effect: You shall well and truly, to the best of your ability, keep this jury together, and neither speak to them yourself, nor suffer any other person to speak to them, touching any matter relative to this trial, until they return into court to-morrow; and the said Thomas Reid is remanded to the custody of the marshal of this court, who is ordered to have the said Thomas Reid in court to-morrow morning, at 11 o'clock.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Tuesday, December 17th, 1850:

Thomas Reid, mariner, who stands indicted of felony jointly with Edward Clements, was this day again led to the bar, in custody of the marshal of this court, and the jury sworn for his trial were brought into court by Dabney M. Miller, bailiff, and were sent out to consult of their verdict, and after some time returned into court, and returned the following verdict: We, the jury, find the prisoner, Thomas Reid, guilty.

JAS. H. GARDINER.

December 17th, 1850.

And the prisoner is remanded to the custody of the marshal of this court.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Saturday, December 21st, 1850:

Edward Clements, convicted of murder and felony on the 29th day of November last, moved the court, by his attorney, to grant him a new trial therein; the said motion and the arguments thereon having been duly considered by the court, was overruled.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Monday, the 23d December, 1850:

Edward Clements and Thomas Reid, late of this district, mariners, who stand convicted of murder and felony, were again led to the bar, in custody of the marshal, and thereupon it being demanded of them if any thing for themselves they had to say why the court here shall

not proceed to pronounce judgment against them according to law, and nothing being offered or alleged in delay of judgment, it is considered by the court, that the said Edward Clements and Thomas Reid, each, be hanged by the neck until he be dead; and that execution of this judgment be made and done upon both, the said Edward Clements and Thomas Reid, by the marshal of this district, on Friday, the thirty-first day of January next; and thereupon the said Edward Clements and Thomas Reid are remanded to jail.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Tuesday, January 14th 1851:

Thomas Reid, mariner, convicted of murder and felony on the 17th day of December, 1850, and who was sentenced on the 23d of December, 1850, to be executed on Friday, the 31st day of January, 1851, moved the court, by his attorney, to grant him a new trial therein; whereupon, on the motion of his attorney, and for reasons appearing to the court, the said motion for a new trial is continued until to-morrow.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Wednesday, January 15th, 1851:

This day the motion for a new trial in the case of the United States vs. Thomas Reid, mariner, made on yesterday, was argued by the counsel for the prisoner, and the attorney for the United States; whereupon the said motion is continued until Friday next.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Friday, January the 17th, 1851:

This day the motion for a new trial in the case of the United States vs. Thomas Reid, mariner, was further argued by the counsel for the prisoner, and the attorney for the United States; and the said motion was thereupon continued until to-morrow.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Saturday, January 18th, 1851:

This day the motion for a new trial in the case of the United States vs. Thomas Reid mariner, was argued and the argument concluded; and the court takes time to consider of its judgment.

And at another day, to wit, at a court of the United States, for the fourth circuit and eastern district of Virginia, held at the court-room aforesaid, on Monday, January 20th, 1851:

On the motion for a new trial in the case of the United States vs. Thomas Reid, mariner, the court takes further time to consider of its judgment; and it is ordered that the marshal of this court bring the prisoners, Thomas Reid and Edward Clements, mariners, now in the jail of Henrico county, under sentence of condemnation, into court to-morrow morning at 10 o'clock.

And at another day, to wit, at a court of the United States, for the

4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Tuesday, January 21st, 1851:

This day Thomas Reid and Edward Clements, who stand convicted in this court of felony and murder, and against whom judgment of death was pronounced by the court on the 23d day of December last, were brought into court in custody of the marshal, and thereupon the said Edward Clements moved the court for a new trial; whereupon, upon the motion of the said Thomas Reid and Edward Clements, it is ordered that the judgment aforesaid, be set aside and time is taken until the next term to consider of their said motions for a new trial, and the said Thomas Reid and Edward Clements are remanded to jail.

Be it also remembered, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the United States court room, in the city of Richmond, on Wednesday, May 14th, 1851:

Present, the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, and the honorable James D. Halyburton, judge of the eastern district of Virginia.

Thomas Reid and Edward Clements, convicted of felony.

On a motion for a new trial, this day came as well the said Thomas Reid and Edward Clements, by their attorneys, as the United States of America, by their attorney, and the argument on the said motion was partly heard, and the court adjourned until to-morrow morning at 11 o'clock.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court room aforesaid, on Thursday, May 15th, 1851:

Thomas Reid and Edward Clements, convicted of felony.

On motion for a new trial, this day came the parties, by their attorneys, and the argument on the said motion for a new trial was further heard; and the court adjourned until to-morrow morning, 11 o'clock.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Friday, May 16th, 1851:

Thomas Reid and Edward Clements, convicted of felony.

On motion for a new trial, this day came the parties, by their attorneys, and the argument on the said motion for a new trial was concluded, and the court takes time to consider.

And at another day, to wit, at a court of the United States, for the 4th circuit and eastern district of Virginia, held at the court-room aforesaid, on Monday, May 19th, 1851:

United States of America against Thomas Reid, convicted of felony.

Motion for a new trial. The motion to set aside the verdict in this case, and to grant a new trial, which was continued from the last term of this court, came on for argument on the following admissions and evidence:

It was admitted that at the trial of this case the prisoner proposed to call Edward Clements, who is jointly indicted with him in the foregoing indictment, as a witness in his behalf, and that the court decided